

Filed: February 3, 2006

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 05-6889
(CR-01-270)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JESUS GUEVARA,

Defendant - Appellant.

O R D E R

The court amends the penultimate sentence in its opinion filed November 28, 2005, to read "Accordingly, although we grant Guevara's motion to file a supplemental memorandum, we deny a certificate of appealability and dismiss the appeal."

For the Court

/s/ Patricia S. Connor

Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6889

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JESUS GUEVARA,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, District Judge. (CR-01-270; CA-04-459-3-HEH)

Submitted: November 17, 2005 Decided: November 28, 2005

Before WILKINSON, LUTTIG, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jesus Guevara, Appellant Pro Se. Nicholas Stephan Altimari, Laura C. Marshall, Elizabeth Catherine Wu, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Jesus Guevara seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Guevara has not made the requisite showing. Accordingly, although we grant Guevara's motion to file a supplemental memorandum, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED